

State of Florida

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Public Service Commission

August 18, 1994

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of BILLED PARTY PREFERENCE FOR 0+
INTERLATA CALLS
Docket No. CC 92-77

Dear Mr. Caton:

On behalf of the Florida Public Service Commission, please find enclosed an original and nine copies of the Commission's REPLY COMMENTS in the above docket. An extra Copy is also enclosed with a stamped, self-addressed envelope; please date stamp and return.

Please contact me should you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script, reading "Cynthia B. Miller".

Cynthia B. Miller
Associate General Counsel

CBM/cjp
fcccbm.cjp

Enclosures

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BEFORE THE
Federal Communications Commission

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In the Matter of)
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**REPLY COMMENTS OF THE
FLORIDA PUBLIC SERVICE COMMISSION**

The Florida Public Service Commission (FPSC), through its undersigned attorney, hereby files its comments to supplement the record in the above-captioned proceeding, released June 6, 1994. The FPSC continues to support the implementation of Billed Party Preference (BPP) conditioned upon a favorable cost/benefit analysis, further study of inmate facility issues and a reasonable jurisdictional allocation of the costs of implementation. Moreover, the FPSC agrees with the FCC's tentative conclusion that BPP, implemented as described in FCC 94-117, is in the public interest for the reasons described therein. Furthermore, the FPSC wishes to supplement the record on two of the topics identified in the FCC's Notice: (1) Costs and Benefits and (2) Implementation of BPP, Breadth of Coverage.

COSTS

It is our understanding that several parties have indicated the costs of implementing BPP are significantly less than previously mentioned. Before implementing BPP, the FCC should assure itself that the cost estimates are sound and that the benefits outweigh the costs.

In addition, we are concerned about the jurisdictional allocation of the costs. Under existing rules, it appears that the bulk of the costs may be inappropriately allocated to the intrastate jurisdiction.

The Florida Commission's support for BPP is also predicated upon a reasonable balancing of the costs of implementation against the benefits to be derived by the consuming public. We further believe an appropriate cost recovery mechanism for LECs should be established.

BENEFITS

The FPSC agrees with the FCC that BPP would provide three principal benefits.

1. BPP would reduce the number of digits dialed and guarantee routing by the billed party's preferred carrier.

2. Operator Service Providers would refocus their competitive efforts on end users rather than on commission payments to premises owners.

3. Competitors of AT&T would be able to offer end users the same 0+ access as AT&T.

We also agree with other commenters that a 4th benefit may be that BPP would reduce regulatory costs. Complaints to the FPSC about billing by interexchange carrier and call aggregators (excluding pay telephone aggregators), i.e., hotels, motels, hospitals, prisons, etc., totaled 477 in 1991; 342 in 1992 and 490 in 1993. Many of these complaints were about rates billed by operator service providers, or intermediary clearinghouses that were unknown to the billed party, exceeding what the caller expected. In addition, complaints were logged against pay telephone providers as follows: 77 in 1991; 41 in 1992 and 40 in 1993. The nature of these complaints include excessive rates, preferred carrier blocked and billed toll charges for local calls. We note that while complaint levels about operator service billing have declined since adoption of the Telephone Operator Services Consumer Improvement Act (TOCSIA) in 1990, they do continue at a level which requires significant time on the part of regulatory staff.

The FPSC has established a strictly enforced rate cap for operator assisted calls. Test calls are routinely made to verify that charges do not exceed the cap. Despite implementation of our rate cap, overcharges amounting to \$2,049,815 have been identified in eleven docketed proceedings with several investigations currently pending. The FPSC is therefore concerned that its rate cap is not a totally sufficient solution as the FPSC continues to find rating and billing errors by pay phone and operator service providers in its test calls. Moreover, we are concerned that, despite our strict enforcement of a rate cap and equal access requirements from call aggregators, we continue to receive complaints that we would not receive if consumers had reached their preferred carrier automatically with BPP. We will not attempt here to quantify the costs this agency incurs to limit blocking and excessive rates; however, we believe it to be significant, and necessary on an ongoing basis unless BPP is implemented. We agree therefore with the FCC that BPP appears to reduce regulatory costs while ensuring that customers receive the rates and service

provided by their own preferred carrier. BPP will more likely focus the industry's attention toward competition for the end user's business rather than that of the location provider.

A further benefit of BPP is that consumers may find it less difficult to effectively complain to the responsible party about rates or service. We note that consumers are frequently frustrated when, depending on whether the LEC is able to answer questions about interexchange carrier billing or not, they have to contact a clearinghouse to identify the entity responsible for the charges on their bill. Often their frustration is heightened when the party responsible for the charges does not have a toll free number for complaints and inquiries.

IMPLEMENTATION OF BPP, BREADTH OF COVERAGE

The FPSC has previously commented in favor of exempting inmate telephones from BPP. However, our experience since those earlier comments reveals that substantial overcharges have occurred with single source providers of inmate service. Nevertheless, inmate facility administrators almost universally oppose implementation of BPP, citing loss of inmate control and security concerns which they anticipate will occur with BPP. With these comments we urge the FCC to further study this issue before making a final determination on requiring BPP for inmate calls. Perhaps it would be appropriate for the FCC to consider requesting data from the states in order to consider their experiences with inmate calling.

As noted above, over two million dollars of overcharges in excess of Florida's rate cap for operator assisted calling have been addressed in numerous dockets. Of this amount more than \$1,753,000 were for calls originating from inmate facilities. We note also that the overcharges were generally in excess of the rate cap agreed upon with the inmate facility by contract. Thus the overcharges were a violation of the rate cap set by the FPSC and of the contract established with the inmate facility. These overcharges are of particular concern since the inmate, and the consumer accepting the call, had no other choice of carrier for their calls. While roughly \$1.4 million of the overcharges were associated with two contract providers who were subsequently terminated by the Department of Corrections, the potential for such abuse remains with the current system. BPP should resolve this problem since the billed party, including for collect calls, will be paying the rates of the carrier the consumer selected.

Another problem identified when LEC routing and screening is bypassed in an inmate environment is that many interexchange carriers do not have the ability to properly apply local and extended area service type calling rates. Thus we have received complaints concerning the billing by interexchange carriers of local calls at toll per minute rates. Our experience has been mixed, some carriers have made refunds while others steadfastly

maintain that they are adhering to their tariff. However, this problem would not exist if BPP were implemented for inmate calls since all traffic would be dialed 0+ and with BPP the LEC would properly route and rate its local and intraLATA calls. Again, the FPSC urges the FCC to further study the issue of exempting inmate facilities from BPP.

CONCLUSION

In summary, we reiterate our support of BPP conditioned on a reasonable cost benefit analysis, a reasonable jurisdictional allocation of the costs, and a study of inmate issues. We support the FCC's tentative conclusion that, implemented as described in FCC 94-117, BPP is in the public interest.

Respectfully submitted,



Cynthia B. Miller
Associate General Counsel

Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399
(904) 488-7464

Dated: August 18, 1994

bpp815.cjp